



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R10-OAR-2013-0005; FRL-9932-40-Region 10]

**Approval and Promulgation of Implementation Plans; Klamath Falls, Oregon
Nonattainment Area; Fine Particulate Matter Emissions Inventory and SIP Strengthening
Measures**

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving State Implementation Plan (SIP) revisions submitted by the Oregon Department of Environmental Quality (ODEQ) on December 12, 2012 to address Clean Air Act (CAA) requirements for the Klamath Falls, Oregon nonattainment area for the 2006 24-hour fine particulate matter (PM_{2.5}) national ambient air quality standard (NAAQS). Specifically, the EPA is approving the emissions inventory contained in the ODEQ's submittal as meeting the requirement to submit a comprehensive, accurate, and current inventory of direct PM_{2.5} and PM_{2.5} precursor emissions in Klamath Falls, Oregon. The EPA also is approving and incorporating by reference PM_{2.5} control measures contained in the December 12, 2012, submittal because incorporation of these measures will strengthen the Oregon SIP and are designed to reduce PM_{2.5} emissions in the Klamath Falls, Oregon nonattainment area (Klamath Falls NAA) that contribute to violations of the 2006 PM_{2.5} NAAQS.

DATES: This final rule is effective on **[insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R10-

OAR-2013-0005. All documents in the docket are listed on the www.regulations.gov website. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy at the Air Programs Unit, Office of Air, Waste and Toxics, EPA Region 10, 1200 Sixth Avenue, Seattle, WA, 98101. The EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Justin A. Spenillo at (206) 553-6125, spenillo.justin@epa.gov, or the above EPA, Region 10 address.

SUPPLEMENTARY INFORMATION: Throughout this document whenever “we,” “us,” or “our” is used, we mean the EPA.

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I. Background

Detailed information on the history of the PM_{2.5} NAAQS as it relates to the Klamath Falls NAA was included in the EPA’s proposal for this action (79 FR 78372, December 30, 2014). The proposal explained how the ODEQ met its obligation under CAA section 172(c)(3) for submission of a comprehensive, accurate, and current inventory of actual emissions as

submitted in its December 12, 2012 SIP submittal. The proposal analyzed the SIP strengthening measures designed to reduce emissions in the Klamath Falls NAA that contribute to violations of the 2006 PM_{2.5} NAAQS. The EPA proposed to approve both the baseline emissions inventory and SIP strengthening measures included the December 12, 2012 SIP revision, consistent with sections 110 and 172 of the CAA.

The comment period on our proposed approval ended January 29, 2015 and we did not receive any comments on the proposal. We are therefore finalizing our approval. The primary element of the Klamath County Clean Air Ordinance 63.06 to help ensure attainment and maintenance of the NAAQS is the episodic curtailment program which restricts the use of woodstoves and fireplaces on days that are conducive to the buildup of PM_{2.5} concentrations. The curtailment program restricts the use of woodstoves and fireplaces as described in the proposed Federal Register notice for this action.

In addition to the episodic curtailment program, the ordinance includes provisions that impose restrictions on what can be burned in woodstoves and fireplaces at any time. The ordinance requires that only seasoned wood, specifically dry, seasoned cordwood, pressed sawdust logs, organic charcoal or pellets specifically manufactured for the appliance, be burned in solid fuel-fired appliances. The rules and ordinance also specifically prohibit the burning of garbage and other named prohibited materials. These material restrictions control the PM_{2.5} emissions from woodstoves and fireplaces on a continuous basis, whereas the episodic curtailment program imposes additional restrictions on the use of woodstoves and fireplaces only when necessary to address the potential buildup of PM_{2.5} concentrations.

As mentioned in the Federal Register notice for the proposed action, the ordinance prohibits emissions from solid fuel-fired appliances with an opacity greater than 20% for a

period or periods aggregating more than three minutes in any one hour period. This provision provides a visual indicator for the proper operation of a solid fuel-fired appliance, including the use of properly seasoned wood. The opacity limit applies at all times except during the ten-minute startup period. However, during those times, the episodic curtailment program and other restrictions regulating fuel contained in the provisions described above continue to apply, as clarified in the June 17, 2015 letter from David Collier (Air Quality Planning Manager, Oregon Department of Environmental Quality), available in the docket.

Accordingly, this combination of provisions constitutes continuous emission limitations, consistent with Federal Clean Air Act requirements. Specifically, reliance on the episodic curtailment program and other provisions regulating fuel described above serves as an adequate alternative emission limit during the starting of fires in solid fuel-fired appliances, when use of the 20% opacity limits would be infeasible. Reliance on those requirements during startup periods is limited and specific to the operation of solid fuel-fired appliances, minimizes the frequency and duration of those periods, and minimizes the impact of emissions on ambient air quality during those periods, while the episodic curtailment program ensures that emission impacts are avoided during potential worst-case periods. While EPA's guidance on alternative emission limits also specifies that the owner or operator's actions during startup and shutdown periods be documented by properly signed, contemporaneous operating logs or other relevant evidence, we do not think it is reasonable to apply that element of the guidance in this case, because we conclude it would be an unreasonable burden to impose this recordkeeping requirement for individual home heating situations. See 80 FR 33840 (June 12, 2015). [relevant discussion is on page 278-279 of the notice available at <http://www.epa.gov/airquality/urbanair/sipstatus/docs/20150522fr.pdf>]

II. Final Action

The EPA approves the emissions inventory for the Klamath Falls NAA, submitted by ODEQ on December 12, 2012, as meeting the emissions inventory requirements of section 172(c)(3) of the CAA for 2006 PM_{2.5} 24-hr NAAQS nonattainment area planning. The EPA also approves and incorporates by reference into the Oregon SIP the specific control measures submitted by the ODEQ on December 12, 2012, to the extent set forth in this final rule. The EPA will take action on remaining aspects of the December 12, 2012 submittal by the ODEQ in a forthcoming proposal.

III. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the Oregon Administrative Rules and Klamath County ordinances described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these documents generally available electronically through www.regulations.gov and/or in hard copy at the appropriate EPA office (see the ADDRESSES section of this preamble for more information).

III. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state

law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because this action does not involve technical standards; and

- does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and it will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days from date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be

challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: August 4, 2015.

Dennis J. McLerran,
Regional Administrator,
EPA Region 10.

40 CFR part 52 is amended as follows:

PART 52 - APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart MM - Oregon

2. In § 52.1970, paragraph (c):

a. Table 2 – EPA Approved Oregon Administrative Rules (OAR) is amended by:

- i. Revising the entries for 204-0010, 225-0090, 240-0010, and 240-0030;
- ii. Adding a header titled “Klamath Falls Nonattainment Area” after the entry for 240-0440 and adding entries for 240-0500, 240-0510, 240-0520, 240-0530, 240-0540, and 240-0550 in numerical order;
- iii. Adding a header titled “Real and Permanent PM_{2.5} and PM₁₀ Offsets” after the entry for 240-0550 and adding an entry for 240-0560 in numerical order;
- iv. Revising the entries for 264-0040, 264-0078, 264-0080, and 264-0100; and
- v. Adding in numerical order an entry for 264-0175.

b. Table 3 – EPA Approved City and County Ordinances is amended by:

- i. Removing the entry for Klamath County Clean Air Ordinance 63; and
- ii. Adding an entry for Klamath County Clean Air Ordinance No. 63.06 at the end of the table.

The revisions and additions read as follows:

§ 52.1970 Identification of plan.

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(c) * * *

Table 2 – EPA APPROVED OREGON ADMINISTRATIVE RULES (OAR)

State citation	Title/subject	State effective date	EPA approval Date	Explanations
*	*	*	*	*
204-0010	Definitions	12/11/2012	[Insert <u>Federal Register</u> publication date] [Insert <u>Federal Register</u> citation]	
*	*	*	*	*
225-0090	Requirements for Demonstrating a Net Air Quality Benefit	12/11/2012	[Insert <u>Federal Register</u> publication date] [Insert <u>Federal Register</u> citation]	Except (2)(a)(C).
*	*	*	*	*
240-0010	Purpose	12/11/2012	[Insert <u>Federal Register</u> publication date] [Insert <u>Federal Register</u> citation]	
*	*	*	*	*
240-0030	Definitions	12/11/2012	[Insert <u>Federal Register</u> publication date] [Insert <u>Federal Register</u> citation]	
*	*	*	*	*
Klamath Falls Nonattainment Area				
240-0500	Applicability	12/11/2012	[Insert <u>Federal Register</u> publication date] [Insert <u>Federal Register</u> citation]	

240-0510	Opacity Standard	12/11/2012	[Insert <u>Federal Register</u> publication date] [Insert <u>Federal Register</u> citation]	
240-0520	Control of Fugitive Emissions	12/11/2012	[Insert <u>Federal Register</u> publication date] [Insert <u>Federal Register</u> citation]	
240-0530	Requirements for Operation and Maintenance Plans	12/11/2012	[Insert <u>Federal Register</u> publication date] [Insert <u>Federal Register</u> citation]	
240-0540	Compliance Schedule for Existing Industrial Sources	12/11/2012	[Insert <u>Federal Register</u> publication date] [Insert <u>Federal Register</u> citation]	
240-0550	Requirements for New Sources When Using Residential Wood Fuel-Fired Device Offsets	12/11/2012	[Insert <u>Federal Register</u> publication date] [Insert <u>Federal Register</u> citation]	
Real and Permanent PM _{2.5} and PM ₁₀ Offsets				
240-0560	Real and Permanent PM _{2.5} and PM ₁₀ Offsets	12/11/2012	[Insert <u>Federal Register</u> publication date] [Insert <u>Federal Register</u> citation]	
* * * * *				
264-0040	Exemptions, Statewide	12/11/2012	[Insert <u>Federal Register</u> publication date] [Insert <u>Federal Register</u> citation]	
* * * * *				
264-0078	Open Burning Control Areas	12/11/2012	[Insert <u>Federal Register</u> publication date] [Insert <u>Federal Register</u> citation]	

264-0080	County Listing of Specific Open Burning Rules	12/11/2012	[Insert <u>Federal Register</u> publication date] [Insert <u>Federal Register</u> citation]	
*	*	*	*	*
264-0100	Baker, Clatsop, Crook, Curry, Deschutes, Gilliam, Grant, Harney, Hood River, Jefferson, Klamath, Lake, Lincoln, Malheur, Morrow, Sherman, Tillamook, Umatilla, Union, Wallowa, Wasco and Wheeler Counties	12/11/2012	[Insert <u>Federal Register</u> publication date] [Insert <u>Federal Register</u> citation]	
*	*	*	*	*
264-0175	Klamath County	12/11/2012	[Insert <u>Federal Register</u> publication date] [Insert <u>Federal Register</u> citation]	
*	*	*	*	*

Table 3 – EPA APPROVED CITY AND COUNTY ORDINANCES

Agency and ordinance	Title or subject	Date	EPA approval date	Explanation
*	*	*	*	*
Klamath County Ordinance 63.06	Chapter 406 - Klamath County Clean Air Ordinance 63.06	12/31/2012	[Insert <u>Federal Register</u> publication date] [Insert <u>Federal Register</u> citation]	Except 406.300 and 406.400 Klamath Falls PM _{2.5} Attainment Plan

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[FR Doc. 2015-20903 Filed: 8/24/2015 08:45 am; Publication Date: 8/25/2015]